

**STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

**ORDER**

**Application 25580B Permit 17513B**

**ORDER APPROVING CHANGE IN POINTS OF DIVERSION AND REDIVERSION,  
PLACE OF USE, RE-DISTRIBUTION OF STORAGE,  
APPROVING A NEW DEVELOPMENT SCHEDULE, AND  
AMENDING THE PERMIT**

**WHEREAS:**

1. Permit 17513B was issued to C. David Wailes on December 30, 1982 pursuant to Application 25580B.
2. Permit 17513B was subsequently assigned to Edward and Camille Penhoet.
3. Petitions to change the place of use, points of diversion, points of rediversion, redistribute storage, and to extend the time within to complete the project have been filed with the State Water Resources Control Board (SWRCB) on March 18, 1984.
4. The SWRCB has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The permittee has proceeded with diligence and good cause has been shown for said changes and for the extension of time.
6. The permit term for the continuing authority of the SWRCB should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.
7. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. Condition 2 of the permit be amended to read:
  1. Point of Diversion, Rediversion, and Offstream Storage:

South 1,500 feet and East 700 feet from the NW corner of projected Section 21, T5N, R4W, MDB&M, being within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 21 (California Coordinate System, Zone 2, North 219,750 feet and East 1,909,800 feet);

2. Point of Diversion, Rediversion, and Offstream Storage:

South 1,500 feet and East 150 feet from the NW corner of projected Section 21, T5N, R4W, MDB&M, being within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 21 (California Coordinate System, Zone 2, North 219,750 feet and East 1,909,250 feet);

3. Point of Diversion to Offstream Storage:

North 2,200 feet and East 300 feet from the NE corner of projected Section 20, T5N, R4W, MDB&M, being within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section 20 (California Coordinate System, Zone 2, North 219,150 feet and East 1,908,750 feet); and

4. Point of Rediversion and Offstream Storage:

South 2,600 feet and East 1,200 feet from the SW corner of projected Section 21, T5N, R4W, MDB&M, being within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of said Section 20 (California Coordinate System, Zone 2, North 218,300 feet and East 1,909,950 feet)  
(0000002)

2. Condition 4 of the permit be amended to read:

Irrigation and Frost Protection:

All within T5N, R4W, MDB & M.

1 acre , within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 20;  
5 acres, within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 20;  
6 acres, within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 20;  
1 acre , within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 21;  
22 acres, within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 21;  
21 acres, within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 21; and  
8 acres, within the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 21,  
64 acres total

Stockwatering and Recreational uses at the reservoirs located as follows:

Reservoir No. 1 - within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 21, T5N, R4W, MDB&M;

Reservoir No. 2 - within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 21, T5N, R4W, MDB&M; and

Reservoir No. 3 - within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 21, T5N, R4W, MDB&M.

Domestic use at residence located within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 21, T5N, R4W, MDB&M.

(0000004)

3. Condition 9 of the permit be amended to read:

Complete application of the water to the proposed use shall be made on or before December 31, 2010.

(0000009)

4. For an annual amount under Permit 17513B issue pursuant to Application 25580B, the following condition shall be included:

The total quantity of water diverted under this permit, together with that diverted under permits issued pursuant to Application 25580C-2 and Application 29262, shall not exceed 70 acre-feet per annum.

(0000114)

5. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

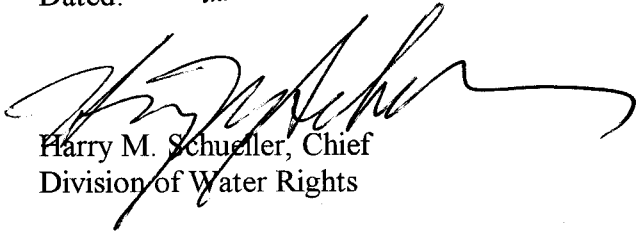
6. The addition of condition to the permit that read as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future,

under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 5131 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

Dated: MAR 23 2000



Harry M. Schueller, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

**ORDER**

APPLICATION 25580B

PERMIT 17513B

LICENSE \_\_\_\_\_

ORDER TO CORRECT A POINT OF DIVERSION TO OFFSTREAM STORAGE,  
TO ADD A POINT OF DIVERSION TO OFFSTREAM STORAGE,  
TO CHANGE THE PURPOSE OF USE, APPROVING A NEW DEVELOPMENT SCHEDULE  
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 17513B was issued to C. David Wailes on December 30, 1982 pursuant to Application 25580B.
2. During a June 4, 1987 inspection of the project, by a State Water Resources Control Board (Board) engineer, the description of the point of diversion to offstream storage was determined to be incorrect. The description of the point of diversion will be amended to state the point of diversion as determined during the inspection.
3. A petition to add a point of diversion and diversion to offstream storage, change the purpose of use and a petition for an extension of time within which to develop the project and apply the water to the proposed use have been filed with the Board.
4. Stockwatering and Recreation at the reservoir will be added, as incidental uses, per Section 798, Title 23 of the California Code of Regulations.
5. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
6. The permittee has proceeded with diligence and good cause has been shown for the said changes and for the extension of time.
7. Permit Condition 12 pertaining to the continuing authority of the Board should be updated to conform to Standard Permit Term 12 as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 2 of the permit be amended to read:

(1) Location of Point of Diversion to Offstream Storage:

South 2,200 feet and West 300 feet from the NE corner of projected Section 20, T5N, R4W, MDB&M; being within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section. Also described as California Coordinate System, Zone 2, North 218,250 and East 1,908,300.

(2) Location of Point of Diversion to Offstream Storage:

South 1,500 feet and East 150 feet from the NW corner of projected Section 21, T5N, R4W, MDB&M; being within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section. Also described as California Coordinate System, Zone 2, North 218,750 and East 1,908,450.

2. Condition 3 of the permit be amended to read:

Purpose of Use:

Irrigation, Recreational, Domestic, Stockwatering and Frost Protection (0000003)

3. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE  
COMPLETED ON OR BEFORE

December 31, 1990 (0000008)

4. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE  
WATER TO THE PROPOSED USE  
SHALL BE MADE ON OR BEFORE

December 31, 1992 (0000009)


5. Condition 12 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: FEBRUARY 07 1989

  
Walter G. Pettit, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

**ORDER**

APPLICATION 25580B

PERMIT 17513B

LICENSE \_\_\_\_\_

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE, AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 8 of the permit is amended to read as follows:

CONSTRUCTION WORK SHALL BE  
COMPLETED ON OR BEFORE

December 1, 1986

2. Paragraph 9 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE  
WATER TO THE PROPOSED USE  
SHALL BE MADE ON OR BEFORE

December 1, 1987

3. Paragraph 12 of this permit is deleted. A new Paragraph 12 is added as follows:

Pursuant to California Water Code Sections 100 and 275, and the public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution.

Dated: JUNE 22 1984

A handwritten signature in cursive script that reads "Raymond Walsh".

Raymond Walsh, Chief  
Division of Water Rights



STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 17513B

Application 25580B of C. David Wailes (over)  
c/o Joseph Ghisletta III, 1732 Jefferson Street, Suite 1, Napa, CA 94559

filed on November 29, 1977, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream Napa River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
Diversion to Offstream Storage: South 1,050 feet and West 630 feet from NE corner of Projected Section 20	NE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	20	5N	4W	MD
Storage and Rediversion: South 1,260 feet and West 420 feet from NE corner of Projected Section 20	NE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	20	5N	4W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Frost Protection						
Irrigation	NE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	20	5N	4W	MD	
	SE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	20	5N	4W	MD	
	NW <sup>1</sup> / <sub>4</sub> of NW <sup>1</sup> / <sub>4</sub>	21	5N	4W	MD	
	SW <sup>1</sup> / <sub>4</sub> of NW <sup>1</sup> / <sub>4</sub>	21	5N	4W	MD	
					Total	60.6

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 24 acre-feet per annum to be collected from November 1 of each year to May 31 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

The maximum rate of diversion to offstream storage shall not exceed 3 cubic feet per second.

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 1, 1982. (0000008)

9. Complete application of the water to the authorized use shall be made by December 1, 1983. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

P17513B

1-27-98 assigned to Internal Revenue Service;

Application 25580B

Permit 17513B

14. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.  
(0000020)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

DECEMBER 30 1982

STATE WATER RESOURCES CONTROL BOARD

*Raymond Wash*

Chief, Division of Water Rights